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LONDALE DEWAYNE COBB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. CR. S-97-0100 FCD
)	
Plaintiff,)	NOTICE REGARDING STATUS OF UNITED
)	STATES v. WESSON; ORDER
v.)	
)	
LONDALE DEWAYNE COBB,)	
)	
Defendant.)	
)	
_____)	

Pursuant to this Court's direction at the November 30, 2009, hearing in the above-entitled matter, defendant LONDALE DEWAYNE COBB, by and through his attorney, Assistant Federal Defender David M. Porter, files this notice regarding the status of *United States v. Wesson*, 9th Cir. No. 08-30177.

According to the Ninth Circuit's electronic docket in the *Wesson* case, a petition for panel and en banc rehearing was filed by the defendant on November 30, 2009. See <https://ecf.ca9.uscourts.gov/cmecf/servlet/TransportRoom?servlet=CaseSummary.jsp&caseNum=08-30177&incOrigDkt=Y&incDktEntries=Y>.

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1 This Court should defer ruling in Mr. Cobb's case until the
2 Wesson decision becomes final. Obviously, there is no need to rush to
3 judgment in this case. The pro se motion was filed on December 21,
4 2007, and the hearing was continued numerous times on the stipulation
5 of the parties until November 30, 2009. Mr. Cobb is incarcerated in a
6 federal prison and the government would suffer absolutely no prejudice
7 if the Court defers ruling. Mr. Cobb would suffer obvious prejudice,
8 however, in the event that this Court rules precipitously and the Ninth
9 Circuit later grants the petition for rehearing in Wesson.¹
10 Accordingly, Mr. Cobb requests the Court enter the order lodged
11 herewith.

12 Dated: December 1, 2009

13 Respectfully submitted,

14 DANIEL J. BRODERICK
15 Federal Defender

16 /s/ David M. Porter
17 DAVID M. PORTER
18 Assistant Federal Defender

19 Attorney for Movant
20 LONDALE DEWAYNE COBB
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24 ¹ In a similar situation, the government urged the court to defer
25 ruling on a defendant's motion to reduce his sentence in *United States*
26 *v. Gary Dewayne McWhorter*, Cr. S 04-372 JAM, pending the outcome of
27 *United States v. Fox*, 9th Cir. No. 08-30445, in which the Ninth
Circuit, sitting en banc, will hear oral argument on December 14, 2009.
In *McWhorter*, the Court essentially deferred ruling for at least six
months, continuing the hearing on the motion to April 20, 2010.

28 **NOTICE REGARDING STATUS OF
UNITED STATES v. WESSON;
ORDER**

ORDER

The above-entitled matter came on for hearing on November 30, 2009, on Mr. Cobb's motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2). It appears to the Court that the Ninth Circuit's decision in *United States v. Wesson*, 583 F.3d 728 (2009), governs the outcome, but because a petition for rehearing was filed in *Wesson*, the Court will defer ruling until *Wesson* becomes final.

Accordingly, this case is ordered **STAYED** pending the final resolution of *United States v. Wesson*, 9th Cir. No. 08-30177. Defendant shall file a notice within 7 days after the *Wesson* decision becomes final.

Dated: December 8, 2009



FRANK C. DAMRELL, Jr.
UNITED STATES DISTRICT JUDGE

NOTICE REGARDING STATUS OF
UNITED STATES v. WESSON;
ORDER